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N.J. BOARD OF DENTISTRY
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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	ADMINISTRATIVE ACTION
	:	
	:	
EWA MARCINKIEWICZ-O'BRIEN, D.D.S.	:	ORDER OF TEMPORARY
LICENSE NO. 22DI01878000	:	SUSPENSION OF LICNESE
	:	
TO PRACTICE DENTISTRY	:	
IN THE STATE OF NEW JERSEY	:	

On May 6, 2013, Jeffrey Chiesa, Attorney General of New Jersey, filed with the State Board of Dentistry an Order to Show Cause and Verified Complaint seeking the temporary suspension of the license of Ewa Marcinkiewicz-O'Brien, D.D.S. ("Dr. Marcinkiewicz-O'Brien" or "respondent"). The emergent application was premised on allegations that over the past six months, Dr. Marcinkiewicz-O'Brien has engaged in a pattern of conduct that resulted in least ten arrests on charges including assaults on police officers and shoplifting, as well as an involuntary commitment to Bergen Regional Medical Center; that she has not adequately secured her dental office; and that she has used controlled dangerous substances without medical or dental cause. The Attorney General argues that

Dr. Marcinkiewicz-O'Brien's conduct "evidence[s] an individual in grave need of medical and/or psychiatric treatment for - at a minimum - the abuse of alcohol and/or controlled dangerous substances..." and that her continued practice constitutes a clear and imminent danger to the public health, safety, and welfare warranting the temporary suspension of her license under the provisions of N.J.S.A. 45:1-22. Having reviewed the evidence in support of the emergent application, the Board agrees.

The Verified Complaint alleges that respondent has engaged in professional misconduct and acts that constitute crimes of moral turpitude, that she is presently engaged in drug use that is likely to impair her ability to practice dentistry with reasonable skill and safety, and that she has prescribed controlled dangerous substances without good cause. The Complaint is supported by certified copies of police department incident reports detailing respondent's several arrests, of the psychiatric admission and discharge records from Bergen Regional Medical Center,¹ a certification of Division of Consumer Affairs Investigator Cecilia Dominguez, and a true copy of an Indictment filed in Essex County on March 27, 2013 against respondent.

¹ The records from Bergen Regional Medical Center (Exhibit I) have been sealed by the Board to protect respondent's privacy.

The Order to Show Cause and Verified Complaint were served on Kevin G. Roe, Esq., counsel for Dr. Marcinkiewicz-O'Brien, and sent by overnight delivery to respondent's home. No answer has been filed by respondent.

On May 15, 2013, the return date of the Order to Show Cause, the Board heard the application. Wendy Leggett Faulk, Deputy Attorney General, appeared. Ms. Faulk advised the Board that no one was present on respondent's behalf, that she had telephoned Mr. Roe's office, and presented an email from Mr. Roe's office confirming receipt of the pleadings. Ms. Faulk also submitted United Parcel Service Overnight Delivery slips indicating the papers had been sent to Dr. Marcinkiewicz-O'Brien's home (S-5 in evidence). She further advised the Board that respondent was being held in the Essex County jail related to pending criminal charges.

As provided in the Order to Show Cause, DAG Faulk asked the Board to proceed in respondent's absence. The Board found that adequate service had been made and on motion made and seconded, the Board entered a default and heard the matter.

Based on the certified documents introduced, the Board found that Dr. Marcinkiewicz-O'Brien is a general dentist with a practice at 42 Locust Street, Wallington, New Jersey. Over the last six months, respondent has had repeated encounters with law enforcement officers, has been arrested and charged with

driving under the influence, shoplifting, and assaults on police officers. While in custody on March 19, 2013, she acknowledged to the police that she has written prescriptions for controlled dangerous substances for personal use. At that meeting, respondent forfeited her Drug Enforcement Agency Registration to representatives of that agency. Further, Respondent has permitted two men, described as homeless, access to her dental office, where they slept. On Christmas Eve, she was involuntarily committed to Bergen Regional Medical Center, and discharged on January 7, 2013. Nothing in the record indicates respondent has undertaken recommended follow-up psychiatric treatment.

The details of the conduct underlying these allegations are found in the certified copies of police reports entered into evidence and are summarized below.

Impairment; prescribing without good cause; possession of CDS

On March 19, 2013, following a motor vehicle collision, respondent was arrested for driving with a suspended license. Shortly after that arrest, a police officer observed in her purse an unlabeled bottle that contained controlled dangerous substances: four (4) Vyvanese (Schedule II), 20% Codeine (Schedule III), and 25% Alprazolam (Schedule IV). During

questioning by the police, parts of which were recorded on video, respondent admitted that she had written those prescription medications in her mother's name for her own use. She claimed to have been taking prescription drugs in the previous month, including Xanax, and acknowledged she had a problem with CDS drug abuse. (Faulk Certification Exhibits A, certified copy of Cedar Grove Police Department report, and B, certification of Dominguez, detailing portions of respondent's video-taped statement). Also on March 19, 2013, while in police custody, respondent, at the request of Drug Enforcement Agency personnel, agreed to forfeit her DEA registration. (Faulk Certification, Exhibit A)

On April 8, 2013, after failing to heed a police officer's direction during a dispute between two men, she threw an opened water bottle at the officer. After her arrest, at the police station, she kicked the officer in the leg. At the time, she possessed 5½ Alprazolam pills; the prescription was in the name of her adult daughter. Respondent was charged with assault and possession of CDS. (Faulk Certification, Exhibit E, certified copy of Wallington Police Department Incident Report)

On April 9, 2013, police responded to the Cedar Grove Post Office following a call that respondent, who had trespassed at

the facility the day before, was again causing a disturbance. The police report indicates Dr. Marcinkiewicz-O'Brien "went into a rant about the way the Country was being run and that she wanted stamps on all her mail and that she has been calling the United Nations about world affairs." After being warned by the police officer that she would be arrested if she again trespassed, respondent left. (Faulk Certification, Exhibit D, certified copy of Cedar Grove Incident/Investigation Report)

On April 13, 2013, respondent was again arrested for driving with a suspended driver's license. An hour after her arrest, she again drove and was again arrested. At the time of that arrest, police found an open bottle of beer in the car's console. The following day, April 14, 2013, respondent was arrested for the third time in 24 hours for driving while her license was suspended. (Faulk Certification, Exhibit F, certified copies of Cedar Grove Arrest Reports)

On February 1, 2013, following a report of a possibly intoxicated driver, police stopped Dr. Marcinkiewicz-O'Brien. When respondent was unable to complete the field sobriety tests, she was arrested for driving while intoxicated. (Faulk Certification, Exhibit G, certified copy of Wallington Incident report)

On December 24, 2012, police responded to a complaint that respondent was in her office and acting irrationally. Inside her office, police observed "several bottles of alcohol, underwear ... strewn about... [and] a 'Salvation Army kettle'..." Respondent expressed suicidal ideation, stating she would "cut her wrist," and was involuntarily committed that day at Bergen Regional Medical Center. She tested positive for opiates (she claims to have taken Tylenol with codeine). As part of an admitting diagnosis, the treatment facility sought to rule out opiate abuse versus dependence. (Faulk Certification, Exhibit H, certified copy of Wallington Incident Report, and Exhibit I, certified copies of hospital records)

In November 2012, while in the Essex County court house on a matter related to criminal charges filed against her daughter, respondent defaced court property. When escorted out by sheriff's officers, she kicked one of them. That behavior resulted in her indictment in March 2013 for aggravated assault, in the fourth degree. (Faulk Certification, Exhibit M, certified copy of Indictment No. 2013-3-716)

Engaging in acts constituting a crime or offense involving moral turpitude

On April 21, 2013, police responded to a call regarding a

belligerent person at the Foodtown supermarket in Cedar Grove. Dr. Marcinkiewicz-O'Brien, whose credit card had been declined, nonetheless had taken several items and attempted to leave the store without paying. During the incident, the police reported that respondent "intentionally stepped" on the officer's foot, and while being placed in handcuffs, she kicked him in his knee and thigh. (Faulk Certification, Exhibit C, certified copy of Cedar Grove Police Department Incident Report)

On November 19, 2012, at the Doggie Paradise store in Wallington, New Jersey, respondent took approximately 25 decorative flag pins and put them in her bag without paying. According to the police report, she represented herself to be from the health department and claimed that "dogs were not allowed to wear flag pins." She then offered to pay far less than the retail value of the pins. The store manager asked that respondent be escorted from the premises and did not press charges. (Faulk Certification, Exhibit L, certified copy of Wallington Police Department Incident Report)

Professional misconduct

On December 18, 2013, the police responded twice to respondent's dental office. At the initial call, two men said to be homeless were sleeping in the hallway. One of the men had

a key to respondent's dental office, and advised that respondent had permitted the two men to sleep in the office. The police took the key from the men. A short while later, Dr. Marcinkiewicz-O'Brien retrieved the key and acknowledged she had given it to one of the men. Later that day, police returned to the address following a report of two homeless men trespassing inside the dental office. One of the two men was intoxicated to the point of being unconscious; he was taken to a hospital. The police report details the scene: dirty and clean clothes in a treatment room as well as numerous vodka bottles, some empty. Patient information, syringes, and prescription pads were not secured. One of the men was smoking a cigarette. (Faulk Certification, Exhibits J and K, certified copies of Wallington Police Department Incident Reports)

As noted above, Dr. Marcinkiewicz-O'Brien has also admitted that she prescribed pills in her mother's name for respondent's own use, and was found in possession of pills prescribed for her daughter.

Discussion

After fully considering the record and argument of counsel, the Board finds that Dr. Marcinkiewicz-O'Brien's continued practice palpably demonstrates a clear and imminent danger to

the public health, safety, and welfare. N.J.S.A. 45:1-22. That conclusion rests upon the Board's determination that respondent has engaged in a pattern of conduct that puts herself, her patients, and the public at large at risk, and that nothing short of a temporary suspension will protect the public.

Respondent self-prescribed, and did so by using the names of family members to secure the controlled dangerous substances she was using to self-medicate. Having expressed suicidal ideation, she was involuntarily committed. There, having tested positive for opiates, the treating health care professionals questioned whether she was abusing opiates. She appears not to have followed-up with care.

Respondent allowed her office to be used as a shelter for two homeless men - one of whom drank himself into unconsciousness - without regard to securing items in her office (patient records, syringes, and prescription blanks). Respondent repeatedly assaulted police officers, drove her automobile while her license was suspended, resulting in three arrests in one 24 hour period, created a disturbance on more than one occasion in a public place, and took or attempted to take items from stores without paying.

Any of these acts, taken singly, would give the Board pause about a licensee's mental health status and her ability to practice with reasonable skill and safety. But taken together, these acts paint a tragic picture a dentist who has lost control of her life. Dr. Marcinkiewicz-O'Brien has abused her prescription privileges, has self-medicated, and has exhibited severely impaired judgment by driving while intoxicated, by failing to secure her dental practice, by assaulting police officers and defacing court property, by driving on a suspended license, by shoplifting, and by causing a disturbance at the post office. Even now, despite notice that her license to practice dentistry could be suspended, Dr. Marcinkiewicz-O'Brien did not respond.

THEREFORE, IT IS ON THIS ^{30th} DAY OF MAY, 2013,

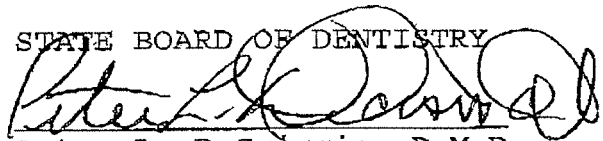
ORDERED:

1. As announced at the May 15, 2013, meeting of the New Jersey State board of Dentistry, the license of Ewa Marcinkiewicz-O'Brien, D.D.S., is temporarily suspended effective May 15, 2013, pending the outcome of a hearing on the allegations of the Verified Complaint.

2. During the period of temporary suspension, respondent

shall comply with the Directives related to persons whose licenses have been suspended, a copy of which is attached.

STATE BOARD OF DENTISTRY

A handwritten signature in dark ink, appearing to read "Peter L. DeSciscio", is written over a horizontal line.

Peter L. DeSciscio, D.M.D.
President